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VIA HAND DELIVERY

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August 2, 2004

9 TN REGULATORY AUTHORITY
DOCKET ROOM

Joelle J. Phillips
Attorney

615 214 6311
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Hon. Pat Miller, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Enforcement of Interconnection Agreement between BellSouth
Telecommunications, Inc. and ITC^DeltaCom Communications, Inc.*

*Enforcement of Interconnection Agreement between BellSouth
Telecommunications, Inc. and XO Tennessee, Inc.*

Docket No. 02-01203

Dear Chairman Miller:

Enclosed for filing in the referenced docket is BellSouth's letter of engagement to auditor American Consultants Alliance and a description of the methodology BellSouth proposes for the audit of converted EELs consistent with the Hearing Officer's *Order* in this docket

On February 13, 2004, the Hearing Officer entered an *Order* determining that BellSouth could proceed with audits of EELs converted from special access by XO and DeltaCom in Tennessee and requiring BellSouth to submit its engagement letter and methodology to the TRA for review. Since that time, Hearing Officer Beals, as you know, has left the TRA. Accordingly, BellSouth would request the appointment of a new Hearing Officer in order to handle any remaining issues associated with this matter.

Copies of the enclosed are being provided to counsel of record.

Cordially,



Joelle Phillips

JJP:ch

675 West Peachtree St , NE
Room 34S91
Atlanta, Georgia 30375

Sent Via Electronic Mail

August 2, 2004

Mr Larry Fowler
American Consultants Alliance
102 Davenport Lane, Suite 1
Louisville, KY 40223

Re Request for EELs Audit

Dear Mr Fowler

This is a request to obtain your services to conduct EELs audits for XO and DeltaCom in Tennessee to determine compliance with the interconnection agreement between BellSouth and XO and the interconnection agreement between BellSouth and DeltaCom.

The EELs audits will entail the verification of the type of traffic being transmitted over combinations of loop and transport network elements converted by XO and DeltaCom from Special Access to EELs and must be conducted in accordance with the standards of the American Institute for Certified Public Accountants (AICPA)

If you are agreeable to conducting the above mentioned audits, please respond within 15 calendar days with a fixed price quote and estimated hours as well as an audit plan for the three options set forth in each of the agreements attached, and we will schedule a conference call to discuss the audit plan, audit start date, necessary records, data gathering and other tasks involved in each of the audits Please include in your response 1) a statement as to whether American Consultants Alliance is affiliated with BellSouth or any BellSouth affiliate and 2) a list of typical engagements in which American Consultants Alliance has been involved If you have any questions regarding these audits, please call me at 404.927.7519.

Sincerely,

Betsy B. Melvin
Manager, Interconnection Marketing

Attachments

cc: Joelle Phillips
Parkey Jordan
Shelley Padgett
Pam Tipton

DeltaCom Special Access Service Conversion Language (BellSouth-DeltaCom Interconnection Agreement Effective 4/24/2001) Identifying Three Options

8.3.1 Special Access Service Conversions

8.3.1.1 ITC^DeltaCom may not convert special access services to combinations of loop and transport network elements, whether or not ITC^DeltaCom self-provides its entrance facilities (or obtains entrance facilities from a third party), unless ITC^DeltaCom uses the combination to provide a significant amount of local exchange service, in addition to exchange access service, to a particular customer. To the extent ITC^DeltaCom requests to convert any special access services to combinations of loop and transport network elements at UNE prices, ITC^DeltaCom shall provide to BellSouth a letter certifying that ITC^DeltaCom is providing a significant amount of local exchange service (as described in this Section) over such combinations. The certification letter shall also indicate under what local usage option ITC^DeltaCom seeks to qualify for conversion of special access circuits. ITC^DeltaCom shall be deemed to be providing a significant amount of local exchange service over such combinations if one of the following options is met:

8.3.1.1.1 ITC^DeltaCom certifies that it is the exclusive provider of an end user's local exchange service. The loop-transport combinations must terminate at ITC^DeltaCom's collocation arrangement in at least one BellSouth central office. This option does not allow loop-transport combinations to be connected to BellSouth's tariffed services. Under this option, ITC^DeltaCom is the end user's only local service provider, and thus, is providing more than a significant amount of local exchange service. ITC^DeltaCom can then use the loop-transport combinations that serve the end user to carry any type of traffic, including using them to carry 100 percent interstate access traffic; or

8.3.1.1.2 ITC^DeltaCom certifies that it provides local exchange and exchange access service to the end user customer's premises and handles at least one third of the end user customer's local traffic measured as a percent of total end user customer local dialtone lines; and for DS1 circuits and above, at least 50 percent of the activated channels on the loop portion of the loop-transport combination have at least 5 percent local voice traffic individually, and the entire loop facility has at least 10 percent local voice traffic. When a loop-transport combination includes multiplexing, each of the individual DS1 circuits must meet this criteria. The loop-transport combination must terminate at ITC^DeltaCom's collocation arrangement in at least one BellSouth central office. This option does not allow loop-transport combinations to be connected to BellSouth tariffed services; or

8.3.1.1.3 ITC^DeltaCom certifies that at least 50 percent of the activated channels on a circuit are used to provide originating and terminating local dial-tone service and at least 50 percent of the traffic on each of these local dial-tone channels is local voice traffic, and that the entire loop facility has at least 33 percent local voice traffic. When a loop-transport combination includes multiplexing, each of the individual DS1 circuits must meet this

DeltaCom Special Access Service Conversion Language (BellSouth-DeltaCom Interconnection Agreement Effective 4/24/2001) Identifying Three Options

criteria. This option does not allow loop-transport combinations to be connected to BellSouth's tariffed services. Under this option, collocation is not required. ITC^DeltaCom does not need to provide a defined portion of the end user's local service, but the active channels on any loop-transport combination, and the entire facility, must carry the amount of local exchange traffic specified in this option.

8.3.1.2 In addition, there may be extraordinary circumstances where ITC^DeltaCom is providing a significant amount of local exchange service, but does not qualify under any of the three options set forth in Section 8.3.5.1.1, 8.3.5.1.2, 8.3.5.1.3. In such case, ITC^DeltaCom may petition the FCC for a waiver of the local usage options set forth in the June 2, 2000 Order. If a waiver is granted, the Parties shall amend this Agreement within 45 days of ITC^DeltaCom's request to the extent necessary to incorporate the terms of such waiver.

8.3.1.3 BellSouth may audit ITC^DeltaCom records to the extent reasonably necessary in order to verify the type of traffic being transmitted over combinations of loop and transport network elements. The audit shall be conducted by a third party independent auditor, and ITC^DeltaCom shall be given thirty days written notice of scheduled audit. Such audit shall occur no more than one time in a calendar year, unless results of an audit find noncompliance with the significant amount of local exchange service requirement. In the event of noncompliance, ITC^DeltaCom shall reimburse BellSouth for the cost of the audit. If, based on its audits, BellSouth concludes that ITC^DeltaCom is not providing a significant amount of local exchange traffic over the combinations of loop and transport network elements, BellSouth may file a complaint with the appropriate Commission, pursuant to the dispute resolution process as set forth in the Interconnection Agreement. In the event that BellSouth prevails, BellSouth may convert such combinations of loop and transport network elements to special access services and may seek appropriate retroactive reimbursement from ITC^DeltaCom.

ITC^DeltaCom may convert special access circuits to combinations of loop and transport UNEs pursuant to the terms of this Section and subject to the termination provisions in the applicable special access tariffs, if any.

1.4 Special Access Service Conversions

NEXTLINK may not convert special access services to combinations of loop and transport network elements, whether or not NEXTLINK self-provides its entrance facilities (or obtains entrance facilities from a third party), unless NEXTLINK uses the combination to provide a "significant amount of local exchange service," to a particular customer, as defined in 1.4.1 below. To the extent NEXTLINK converts its special access services to combinations of loop and transport network elements at UNE prices, NEXTLINK, hereby, certifies that it is providing a significant amount of local exchange service over such combinations, as set forth in 1.4.1 below. If, based on audits performed as set forth in this section, BellSouth concludes that NEXTLINK is not providing a significant amount of local exchange traffic over the combinations of loop and transport network elements, BellSouth may file a complaint with the appropriate Commission, pursuant to the dispute resolution process as set forth in the Interconnection Agreement. In the event that BellSouth prevails, BellSouth may convert such combinations of loop and transport network elements to special access services and may seek appropriate retroactive reimbursement from NEXTLINK.

Notwithstanding any provision in the Parties interconnection agreement to the contrary, BellSouth may only conduct such audits as reasonably necessary to determine whether NEXTLINK is providing a significant amount of local exchange service over facilities provided as combinations of loop and transport network elements, and, except where noncompliance has been found, BellSouth shall perform such audits no more than once each calendar year. BellSouth shall provide NEXTLINK and the FCC at least thirty days notice of any such audit, shall hire an independent auditor to perform such audit, and shall be responsible for all costs of said independent audit, unless noncompliance is found, in which case NEXTLINK shall be responsible for reimbursement to BellSouth for the reasonable costs of such audit. NEXTLINK shall cooperate with said auditor, and shall provide appropriate records from which said auditor can verify NEXTLINK's local usage certification as set forth in 1.4.1 below. In no event, however, shall BellSouth or its hired auditor require records other than those kept by NEXTLINK in the ordinary course of business.

1.4.1 EEL combinations for DS1 level and above will be available only when NEXTLINK provides and handles a significant amount of the end user's local exchange service. NEXTLINK shall be deemed to be providing a significant amount of the end user's local exchange service where NEXTLINK meets one of the three circumstances set forth in 1.4.1.1, 1.4.1.2, or 1.4.1.3 below. NEXTLINK hereby certifies that all requests for EEL combinations, existing or new, shall meet one of these circumstances. Should extraordinary circumstances exist where NEXTLINK is providing a significant amount of local exchange service to an end user but does not qualify under any of these three circumstances, NEXTLINK may petition the FCC for a waiver of these requirements.

1.4.1.1 NEXTLINK certifies that it is the exclusive provider of the end user's local exchange service. In such circumstance, the EEL combination(s) must terminate at NEXTLINK's collocation arrangement at at least one BellSouth Central Office. Such EEL combinations may not be connected to other BellSouth tariffed services. NEXTLINK may use the EEL combination(s) that serve that end user to carry any type of traffic; or

1.4.1.2 NEXTLINK certifies that it provides local exchange and exchange access service to the end user customer's premises and handles at least one third of the end user customer's local traffic measured as a percent of total end user customer local dialtone lines; and, for DS1 circuits and above, at least 50 percent of the activated channels on the loop portion of the EEL combination have at least 5 percent local voice traffic individually, and the entire loop facility has at least 10 percent local voice traffic. When such EEL combination includes multiplexing, each of the individual DS1 circuits must meet this criteria. In the circumstance set forth in this subsection, the EEL combination(s) must terminate at NEXTLINK's collocation arrangement in at least one BellSouth Central Office. Such EEL combinations may not be connected to other BellSouth tariffed services. NEXTLINK may use such EEL combinations to provide other services to the end user, so long as the local usage criteria set forth in this subsection are met; or

1.4.1.3 NEXTLINK certifies that it provides originating and terminating local dialtone service on at least 50 percent of the activated channels on a circuit, and at least 50 percent of the traffic on each of these local dialtone channels is local voice traffic. Further, the entire loop facility must have at least 33 percent local voice traffic. When such EEL combination includes multiplexing, each of the individual DS1 circuits must meet this criteria. NEXTLINK does not need to provide a defined portion of the end user's local service, but the active channels, and the entire facility, must carry the amount of local exchange traffic specified in this option. In the circumstance set forth in this subsection, collocation is not required. Such EEL combinations may not be connected to other BellSouth tariffed services.

Audit Methodology

Audit utilizing all converted EELs of XO and DeltaCom, using a sample of call detail records for a specified period of time and service provisioning records, where appropriate.

Goal

To ascertain compliance with the terms of the interconnection agreement between BellSouth and XO as related to special access services converted to Enhanced Extended Links (EELs) in Tennessee.

To ascertain compliance with the terms of the interconnection agreement between BellSouth and DeltaCom as related to special access services converted to Enhanced Extended Links (EELs) in Tennessee.

Scope

Data and records necessary to accomplish goal

Audit Firm

American Consultants Alliance (ACA)

Records Required

Records necessary based on options self-designated by XO and by DeltaCom, but will include the following:

Option 1 EELs:

- A LOA to CLEC or other similar document signed by the end user for each circuit (provided by CLEC);
- In absence of LOA. Other written documentation for support that CLEC is the end user's only local service provider (provided by CLEC).
- Personal certification by senior management of compliance with this option
- Records of service establishment dates
- Records of service establishment and disconnect dates from other carriers

Option 2 EELs:

- Total traffic and local traffic separately identified and measured as a percent of total end user customer local dial tone lines (provided by CLEC),

- For DS1 circuits and above. Total traffic and local voice traffic separately identified individually on each of the activated channels on the loop portion of the loop-transport combination (provided by CLEC);
- Total traffic and local voice traffic separately identified on the entire loop facility (provided by CLEC);
- Total traffic and local voice traffic separately identified for each individual DS1 circuit when a loop-transport combination includes multiplexing (provided by CLEC).

Option 3 EELs.

- The number of activated channels on a circuit that provide originating and terminating local dial tone service (provided by CLEC);
- The total traffic and the local voice traffic separately identified on each of these local dial tone channels (provided by CLEC);
- The total traffic and the local voice traffic separately identified for the entire loop facility (provided by CLEC);
- Total traffic and local voice traffic separately identified for each individual DS1 circuit when a loop-transport combination includes multiplexing (provided by CLEC)

Proposed Timeline

Data Gathering: 2-3 weeks

Inspection of Data Gathered: 2-3 weeks

Report Finalization: 2 weeks

Compliance Audit: 2 weeks

AICPA-Compliance Assurance

Stuedle Spears, LLP will conduct a compliance audit to ensure the EELs audit is conducted in compliance with the AICPA standards. This will involve:

1. Assisting the audit team in developing the audit program;
2. Inspecting the underlying evidence consisting of the audit worksheets and documentation for evidence of non-compliance; and
3. Providing a compliance report.

A compliance audit will provide reasonable assurance that procedures are being applied as prescribed so that the validity of underlying evidence is assured. Any exceptions to compliance would be noted. Underlying evidence comprises an examination of the audit worksheets and documentation gathered from XO and BellSouth and from DeltaCom and BellSouth. Compliance tests may be conducted on a subjective or statistical basis.

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2004, a copy of the foregoing document was served on the following, via the method indicated:

- ☐ Hand
- ☐ Mail
- ☐ Facsimile
- ☐ Overnight
- ☒ Electronic

Henry Walker, Esquire
Boult, Cummings, et al.
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hwalker@boultcummings.com

- ☐ Hand
- ☐ Mail
- ☐ Facsimile
- ☐ Overnight
- ☒ Electronic

Nanette S. Edwards, Esquire
ITC^DeltaCom
4092 South Memorial Parkway
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nedwards@deltacom.com

A handwritten signature in black ink, appearing to read "Nanette S. Edwards", written over a horizontal line.